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In re Application of
BRUDER et al.
Application No.: 10/534,849
PCT No.: PCT/EP03/12280
Int. Filing Date: 04 November 2003
Priority Date: 15 November 2002
Attorney's Docket No.: CH8351/LeA 36,481
For: OPTICAL DATA STORE COMPRISING A CO
PHTHALOCYANINE HAVING AN AXIAL
SUBSTITUENT...INFORMATION LAYER

DECISION

This is a decision on the submission filed via facsimile transmission by applicants on 10 April 2006.

BACKGROUND

On 04 November 2003, applicants filed international application PCT/EP03/12280 which claimed a priority date of 15 November 2002 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 June 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 16 May 2005 (15 May 2005 being a Sunday).

On 13 May 2005, applicants filed, *inter alia*, a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 28 September 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 12 October 2005, applicants filed a submission via facsimile transmission which was accompanied by, *inter alia*, a declaration of inventors and the surcharge under 37 CFR 1.492(e).

On 10 February 2006, a Notification was mailed indicating that the declaration of inventors filed 12 October 2005 was not in compliance with 37 CFR 1.497(a)-(b) because there was a difference in names in the first-named inventor between the published international application (Horst Bruder) and the declaration of inventors (Horst Berneth).

On 10 April 2006, applicants filed the instant submission via facsimile transmission.

DISCUSSION

The instant submission states that the published international application mistakenly indicated the first-named inventor as Horst BRUDER. On 27 April 2006, the International Bureau published a correction in which the first-named inventor is indicated as Horst BERNETH. Accordingly, the name of the first-named inventor is no longer an issue. However, the third-named inventor is indicated in the declaration of inventors filed 12 October 2005 as Winfried Haese but is indicated in the published international application and in the copy of the Request accompanying the submission filed 10 April 2006 as Wilfried Haese. Thus, the declaration of inventors is still not in compliance with 37 CFR 1.497(a)-(b). If the correct name is Wilfried Haese, it can be corrected either by submitting a new declaration of inventors signed by Wilfried Haese or by filing an Application Data Sheet. If the correct name is Winfried Haese, then the error must be explained.

CONCLUSION

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file a proper response.

Failure to timely file a proper response to this decision in a timely manner will result in abandonment of the application with regards to national stage prosecution in the United States.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Daniel Stemmer

Legal Examiner

PCT Legal Affairs

Office of Patent Cooperation Treaty

Legal Administration

Telephone: (571) 272-3301

Facsimile: (571) 273-0459